

§ 738.4

EAR is self-contained and includes information on licensing requirements, licensing policies, and all available License Exceptions, for items controlled for Short Supply reasons.

(2) *Unique entries.* The following are unique entries where you do not need to consult the Country Chart to determine whether a license is required.

(i) *ECCNs 0A983 and 5A980.* A license is required for all destinations of items controlled under these entries. No License Exceptions apply. If your item is controlled by 0A983 or 5A980 you should proceed directly to part 748 of the EAR for license application instructions and § 742.11 or § 742.13 of the EAR for information on the licensing policy relevant to these types of applications.

(ii) *ECCNs 0A982, 0A985, 0A988, 0A989, 0A999, 0B986, 0B999, 0D999, 0E982, 1A999, 1B999, 1C355, 1C995, 1C998, 1C999, 1D999, 2A994, 2A999, 2B999, 2D994, 2E994, 3A999, and 6A999.* A license is required for items controlled under these entries only to the specific countries identified within each entry.

(b) *Countries.* The first column of the Country Chart lists all countries in alphabetical order. There are a number of destinations that are not listed in the Country Chart contained in Supplement No. 1 to part 738. If your destination is not listed on the Country Chart and such destination is a territory, possession, or department of a country included on the Country Chart, the EAR accords your destination the same licensing treatment as the country of which it is a territory, possession, or department. For example, if your destination is the Cayman Islands, a dependent territory of the United Kingdom, consult the United Kingdom on the Country Chart for licensing requirements.

(c) *Columns.* Stretching out to the right are horizontal headers identifying the various Reasons for Control. Under each Reason for Control header are diagonal column identifiers capping individual columns. Each column identifier consists of the two letter Reason for Control and a column number. (e.g., CB Column 1). The column identifiers correspond to those listed in the "Country Chart" header within the "License Requirements" section of each ECCN.

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(d) *Cells.* The symbol "X" is used to denote licensing requirements on the Country Chart. If an "X" appears in a particular cell, transactions subject to that particular Reason for Control/Destination combination require a license. There is a direct correlation between the number of "X's applicable to your transaction and the number of licensing reviews your application will undergo.

[61 FR 12756, Mar. 25, 1996, as amended at 63 FR 42228, Aug. 7, 1998; 65 FR 55178, Sept. 13, 2000]

§ 738.4 Determining whether a license is required.

(a) *Using the CCL and the Country Chart—(1) Overview.* Once you have determined that your item is controlled by a specific ECCN, you must use information contained in the "License Requirements" section of that ECCN in combination with the Country Chart to decide whether a license is required.

(2) *License decision making process.* The following decision making process must be followed in order to determine whether a license is required to export or reexport a particular item to a specific destination:

(i) *Examine the appropriate ECCN in the CCL.* Is the item you intend to export or reexport controlled for a single Reason for Control?

(A) If yes, identify the single Reason for Control and the relevant Country Chart column identifier (e.g., CB Column 1).

(B) If no, identify the Country Chart column identifier for each applicable Reason for Control (e.g., NS Column 1, NP Column 1, etc.).

(ii) *Review the Country Chart.* With each of the applicable Country Chart Column identifiers noted, turn to the Country Chart (Supplement No. 1 to part 738). Locate the correct Country Chart column identifier on the diagonal headings, and determine whether an "X" is marked in the cell next to the country in question for each Country Chart column identified in the applicable ECCN. If your item is subject to more than one reason for control, repeat this step using each unique Country Chart column identifier.

(A) If yes, a license application must be submitted based on the particular

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reason for control and destination, unless a License Exception applies. If "Yes" is noted next to any of the listed License Exceptions, you should consult part 740 of the EAR to determine whether you can use any of the available ECCN-driven License Exceptions to effect your shipment, rather than applying for a license. Each affirmative license requirement must be overcome by a License Exception. If you are unable to qualify for a License Exception based on each license requirement noted on the Country Chart, you must apply for a license. Note that other License Exceptions, not related to the CCL, may also apply to your transaction (See part 740 of the EAR).

(B) If no, a license is not required based on the particular Reason for Control and destination. Provided that General Prohibitions Four through Ten do not apply to your proposed transaction and that any applicable notification or review requirements described in § 742.15(b)(1) and (b)(2) of the EAR have been met for certain encryption items controlled under ECCNs 5A992, 5D992 and 5E992, you may effect your shipment using the symbol "NLR". Proceed to parts 758 and 762 of the EAR for information on export clearance procedures and record-keeping requirements. Note that although you may stop after determining a license is required based on the first Reason for Control, it is best to work through each applicable Reason for Control. A full analysis of every possible licensing requirement based on each applicable Reason for Control is required to determine the most advantageous License Exception available for your particular transaction and, if a license is required, ascertain the scope of review conducted by BIS on your license application.

(b) *Sample analysis using the CCL and Country Chart—(1) Scope.* The following sample entry and related analysis is provided to illustrate the type of thought process you must complete in order to determine whether a license is required to export or reexport a particular item to a specific destination

using the CCL in combination with the Country Chart.

(2) *Sample CCL entry.*

2A000: Entry heading.**LICENSE REQUIREMENTS***Reason for Control:* NS, NP, AT

| Control(s) | Country Chart |
|----------------------------------|---------------|
| NS applies to entire entry | NS Column 2 |
| NP applies to 2A000.b | NP Column 1 |
| AT applies to entire entry | AT Column 1 |

LICENSE EXCEPTIONS*LVS:* \$5,000*GBS:* Yes*CIV:* N/A**LIST OF ITEMS CONTROLLED***Unit:* Number*Related Definition:* N/A*Related Controls:* N/A*Items:*

- a. Having x.
- b. Having z.

(3) *Sample analysis.* After consulting the CCL, I determine my item, valued at \$10,000, is classified under ECCN 2A000.a. I read that the entire entry is controlled for national security, and anti-terrorism reasons. Since my item is classified under paragraph .a, and not .b, I understand that though nuclear nonproliferation controls apply to a portion of the entry, they do not apply to my item. I note that the appropriate Country Chart column identifiers are NS Column 2 and AT Column 1. Turning to the Country Chart, I locate my specific destination, India, and see that an "X" appears in the NS Column 2 cell for India, but not in the AT Column 1 cell. I understand that a license is required, unless my transaction qualifies for a License Exception or Special Comprehensive License. From the License Exception LVS value listed in the entry, I know immediately that my proposed transaction exceeds the value limitation associated with LVS. Noting that License Exception GBS is "Yes" for this entry, I turn to part 740 of the EAR to review the provisions related to use of GBS.

[61 FR 12756, Mar. 25, 1996, as amended at 67 FR 38861, June 6, 2002]

SUPPLEMENT NO. 1 TO PART 738—COMMERCE COUNTRY CHART
 [Reason for control]

| Countries | Chemical and biological weapons | | | Nuclear non-proliferation | | | National security | | | Missile tech | | | Regional stability | | | Fire-arms convention | | | Crime control | | | Anti-terrorism | | | |
|--------------------------------|---------------------------------|------|------|---------------------------|------|------|-------------------|------|------|--------------|------|------|--------------------|------|------|----------------------|------|------|---------------|------|------|----------------|------|------|--|
| | CB 1 | CB 2 | CB 3 | NP 1 | NP 2 | NS 1 | NS 2 | MT 1 | RS 1 | RS 2 | FC 1 | CC 1 | CC 2 | CC 3 | AT 1 | AT 2 | AT 2 | AT 2 | AT 2 | AT 2 | AT 2 | AT 2 | AT 2 | AT 2 | |
| Afghanistan | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | |
| Albania | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | |
| Algeria | | | | | | | | | | | | | | | | | | | | | | | | | |
| Andorra | | | | | | | | | | | | | | | | | | | | | | | | | |
| Angola | | | | | | | | | | | | | | | | | | | | | | | | | |
| Antigua and Barbuda | | | | | | | | | | | | | | | | | | | | | | | | | |
| Argentina | | | | | | | | | | | | | | | | | | | | | | | | | |
| Amenia | | | | | | | | | | | | | | | | | | | | | | | | | |
| Aruba | | | | | | | | | | | | | | | | | | | | | | | | | |
| Australia | | | | | | | | | | | | | | | | | | | | | | | | | |
| Austria | | | | | | | | | | | | | | | | | | | | | | | | | |
| Azerbaijan | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bahamas, The | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bahrain | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bangladesh | | | | | | | | | | | | | | | | | | | | | | | | | |
| Barbados | | | | | | | | | | | | | | | | | | | | | | | | | |
| Belarus | | | | | | | | | | | | | | | | | | | | | | | | | |
| Belgium | | | | | | | | | | | | | | | | | | | | | | | | | |
| Belize | | | | | | | | | | | | | | | | | | | | | | | | | |
| Benin | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bhutan | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bolivia | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bosnia and Herzegovina | | | | | | | | | | | | | | | | | | | | | | | | | |
| Botswana | | | | | | | | | | | | | | | | | | | | | | | | | |
| Brazil | | | | | | | | | | | | | | | | | | | | | | | | | |
| Brunei | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bulgaria | | | | | | | | | | | | | | | | | | | | | | | | | |
| Burkina Faso | | | | | | | | | | | | | | | | | | | | | | | | | |
| Burma | | | | | | | | | | | | | | | | | | | | | | | | | |
| Burundi | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cambodia | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cameron | | | | | | | | | | | | | | | | | | | | | | | | | |
| Canada | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cape Verde | | | | | | | | | | | | | | | | | | | | | | | | | |
| Central African Republic | | | | | | | | | | | | | | | | | | | | | | | | | |
| Chad | | | | | | | | | | | | | | | | | | | | | | | | | |
| Chile | | | | | | | | | | | | | | | | | | | | | | | | | |
| China | | | | | | | | | | | | | | | | | | | | | | | | | |
| Colombia | | | | | | | | | | | | | | | | | | | | | | | | | |
| Comoros | | | | | | | | | | | | | | | | | | | | | | | | | |

| Countries | [Reason for control] | | | | | | | | | | Anti-terrorism | | | | | |
|---|---------------------------------|------|------|---------------------------|------|------|-------------------|------|--------------|------|--------------------|------|----------------------|------|------|------|
| | Chemical and biological weapons | | | Nuclear non-proliferation | | | National security | | Missile tech | | Regional stability | | Fire-arms convention | | | |
| | CB 1 | CB 2 | CB 3 | NP 1 | NP 2 | NS 1 | NS 2 | MT 1 | RS 1 | RS 2 | FC 1 | CC 1 | CC 2 | CC 3 | AT 1 | AT 2 |
| Kazakhstan | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x | x |
| Kenya | | | | | | | | | | | | | | | | |
| Kiribati | | | | | | | | | | | | | | | | |
| Korea, North | | | | | | | | | | | | | | | | |
| Korea, South | | | | | | | | | | | | | | | | |
| Kuwait | | | | | | | | | | | | | | | | |
| Kyrgyzstan | | | | | | | | | | | | | | | | |
| Lao PDR | | | | | | | | | | | | | | | | |
| Laos | | | | | | | | | | | | | | | | |
| Latvia | | | | | | | | | | | | | | | | |
| Lebanon | | | | | | | | | | | | | | | | |
| Lesotho | | | | | | | | | | | | | | | | |
| Liberia | | | | | | | | | | | | | | | | |
| Libya | | | | | | | | | | | | | | | | |
| Liechtenstein | | | | | | | | | | | | | | | | |
| Lithuania | | | | | | | | | | | | | | | | |
| Luxembourg | | | | | | | | | | | | | | | | |
| Macau | | | | | | | | | | | | | | | | |
| Macedonia (The Former Yugoslav Republic of) | | | | | | | | | | | | | | | | |
| Madagascar | | | | | | | | | | | | | | | | |
| Malawi | | | | | | | | | | | | | | | | |
| Malaysia | | | | | | | | | | | | | | | | |
| Maldives | | | | | | | | | | | | | | | | |
| Mali | | | | | | | | | | | | | | | | |
| Malta | | | | | | | | | | | | | | | | |
| Marshall Islands | | | | | | | | | | | | | | | | |
| Mauritania | | | | | | | | | | | | | | | | |
| Mauritius | | | | | | | | | | | | | | | | |
| Mexico | | | | | | | | | | | | | | | | |
| Micronesia (Federated State of) | | | | | | | | | | | | | | | | |
| Moldova | | | | | | | | | | | | | | | | |
| Monaco | | | | | | | | | | | | | | | | |
| Mongolia | | | | | | | | | | | | | | | | |
| Morocco | | | | | | | | | | | | | | | | |
| Mozambique | | | | | | | | | | | | | | | | |
| Namibia | | | | | | | | | | | | | | | | |
| Nauru | | | | | | | | | | | | | | | | |
| Nepal | | | | | | | | | | | | | | | | |
| Netherlands Antilles | | | | | | | | | | | | | | | | |
| New Zealand | | | | | | | | | | | | | | | | |

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| Nicaragua | |
| Niger | |
| Nigeria | |
| Norway | |
| Oman | |
| Pakistan | |
| Palau | |
| Panama | |
| Papua New Guinea | |
| Paraguay | |
| Peru | |
| Philippines | |
| Poland | |
| Portugal | |
| Qatar | |
| Romania | |
| Russia | |
| Rwanda ¹ | |
| St. Kitts and Nevis | |
| St. Lucia | |
| St. Vincent and the Grenadines | |
| Samoa | |
| San Marino | |
| Sao Tome and Principe | |
| Saudi Arabia | |
| Senegal | |
| Serbia and Montenegro | |
| Seychelles | |
| Sierra Leone | |
| Singapore | |
| Slovakia | |
| Slovenia | |
| Solomon Islands | |
| Somalia | |
| South Africa | |
| Spain | |
| Sri Lanka | |
| Sudan | |
| Surname | |
| Swaziland | |
| Sweden | |
| Switzerland | |
| Syria | |
| Taiwan | |
| Tajikistan | |
| Tanzania | |
| Thailand | |
| Togo | |
| Tonga | |

| Countries | [Reason for control] | | | | | | | | | |
|----------------------------|---------------------------------|------|------|---------------------------|------|-------------------|------|--------------|------|----------------------|
| | Chemical and biological weapons | | | Nuclear non-proliferation | | National security | | Missile tech | | Regional stability |
| CB 1 | CB 2 | CB 3 | NP 1 | NP 2 | NS 1 | NS 2 | MT 1 | RS 1 | RS 2 | Fire-arms convention |
| Trinidad and Tobago | x | x | x | x | x | x | x | x | x | x |
| Tunisia | x | x | x | x | x | x | x | x | x | x |
| Turkey | x | x | x | x | x | x | x | x | x | x |
| Tuvalu | x | x | x | x | x | x | x | x | x | x |
| Uganda | x | x | x | x | x | x | x | x | x | x |
| Ukraine | x | x | x | x | x | x | x | x | x | x |
| United Arab Emirates | x | x | x | x | x | x | x | x | x | x |
| United Kingdom | x | x | x | x | x | x | x | x | x | x |
| Uruguay | x | x | x | x | x | x | x | x | x | x |
| Uzbekistan | x | x | x | x | x | x | x | x | x | x |
| Vanuatu | x | x | x | x | x | x | x | x | x | x |
| Vatican City | x | x | x | x | x | x | x | x | x | x |
| Venezuela | x | x | x | x | x | x | x | x | x | x |
| Vietnam | x | x | x | x | x | x | x | x | x | x |
| Western Sahara | x | x | x | x | x | x | x | x | x | x |
| Yemen | x | x | x | x | x | x | x | x | x | x |
| Zambia | x | x | x | x | x | x | x | x | x | x |
| Zimbabwe | x | x | x | x | x | x | x | x | x | x |

¹This country is subject to United Nations Sanctions. See part 746 of the EAR for additional OFAC licensing requirements that may apply to your proposed transaction.

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